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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,798	02/09/2006	Martin Meise	2923-707	6209

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EXAMINER	
SWOPE, SHERIDAN	

ART UNIT	PAPER NUMBER
1652	

NOTIFICATION DATE	DELIVERY MODE
11/29/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.	Applicant(s)	
	10/537,798	MEISE ET AL.	
	Examiner	Art Unit	
	Sheridan L. Swope	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE IN MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-35* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-35 are pending.

Election/Restrictions

Restriction is required under 35 U.S.C. 121.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

I. Claims 2-7, 10, 20, 21, and Claims 1, 11-15, and 33, in part, drawn to a polynucleotide encoding an energy homeostasis polypeptide, classified in class 530, subclass 350.

II. Claims 8 and 9, and Claims 1, 11-15, and 33, in part, drawn to an energy homeostasis polypeptide, classified in class 530, subclass 350.

III. Claims 1 and 11-15, in part, drawn to a modulator of a polynucleotide encoding an energy homeostasis polypeptide, classified in class 536, subclass 1.

IV. Claims 1 and 11-15, in part, drawn to a modulator of an energy homeostasis polypeptide, classified in class 536, subclass 1.

V. Claims 16, 25-30, 34, and 35, drawn to a method a method for making a composition or medicament, classified in class 424, subclass 400.

VI. Claims 17, 22, drawn to a method for identifying a binding partner, classified in class 435, subclass 7.

VII. Claims 18 and 19, drawn to a non-human transgenic animal, classified in class 800, subclass 9.

VIII. Claims 23, drawn to a method for identifying a modulator of binding, classified in class 435, subclass 4.

IX. Claim 24, drawn to a method for identifying a modulator of activity, classified in class 435, subclass 4.

X. Claim 31, drawn to a method of making a medicament using a host cell, classified in class 424, subclass 400.

XI. Claim 32, drawn to a method of making a non-human transgenic animal classified in class 800, subclass 21.

XII. Claim 33, in part,, drawn to a kit comprising an antibody, classified in class 530, subclass 388.26.

For each of Inventions I-XII above, restriction to one of the following is also required under 35 USC 121. Therefore, election is required of one of Inventions I-XII and one or more of Inventions (A)-(R), as indicated.

If any of Inventions I-XII is elected, elect one of:

(A) Fwd

(B) Pp2C1

(C) Adk3

(D) CG3860

(E) Cdk4

(F) CG7134

(G) Eip75B

(H) one specific polypeptide of Table 1, or an encoding polynucleotide

If Invention V is elected, elect one of:

(I) A polynucleotide

(J) A polypeptide

(K) A modulator of a polypeptide

(L) A modulator of a polynucleotide

If Invention VI is elected, elect one of:

(M) A polynucleotide

(N) A polypeptide

(O) A modulator of a polypeptide

(P) A modulator of a polynucleotide

If Invention VII is elected, elect one of:

(Q) Gene expression is reduced

(R) Gene express is increased.

The inventions listed as Groups I-XII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reasons: The technical feature linking Groups I- XII appears to be that they all relate to energy homeostasis polypeptides. However, energy homeostasis polypeptides were known in the art. For example, Sotillo et al, 2001 teach a Cdk4 polypeptide, which anticipates Claim 1. Therefore Groups I- XII share no special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art. Furthermore, the products of Groups I-IV, VII and XII do not share a special common structural and functional feature while, the methods of Groups V, VI, VIII-XI do not use the same reagents or produce the

same results. In addition, the methods of Groups V, VI, VIII-XI do not comprise all of the methods for making or using the products of Groups I-IV, VII and XII. Accordingly, Groups I-XII are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

The species listed above are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 1 and 11-15 are generic.

Restriction for examination purposes as indicated is proper because the inventions and species listed in this action do not share special technical feature for the reasons given above. In addition, there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention and species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

To insure that each document is properly filed in the electronic file wrapper, it is requested that each of amendments to the specification, amendments to the claims, Applicants' remarks, requests for extension of time, and any other distinct papers be submitted on separate pages.

It is also requested that Applicants identify support, within the original application, for any amendments to the claims and specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan L. Swope whose telephone number is 571-272-0943. The examiner can normally be reached on M-F; 9:30-7 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sheridan Lee Swope, Ph.D
Art Unit 1652